

RECEIVED

JUL - 2 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

STATE OF MARYLAND



DOCKET FILE COPY ORIGINAL

JOHN M. GLYNN
PEOPLE'S COUNSEL

DONALD F. ROGERS
SANDRA MINCH GUTHORN
FREDERICK H. HOOVER
KIRSTEN A. BURGER
PAUL S. BUCKLEY
PAULA M. CARMODY
CYNTHIA GREEN-WARREN
THERESA V. CZARSKI
CHRISTOPHER R. COOK

MARYLAND PEOPLE'S COUNSEL

AMERICAN BUILDING, 9TH FLOOR
231 EAST BALTIMORE STREET
BALTIMORE, MARYLAND 21202
(410) 333-6046
FAX (410) 333-3616

July 1, 1993

RECEIVED

JUL 2 1993

FCC MAIL ROOM

Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: MM Docket No. 92-266

Dear Ms. Searcy:

Enclosed for filing, please find an original and four (4) copies of the Reply Comments of the Maryland Office of People's Counsel.

Please do not hesitate to contact me if you should have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Theresa V. Czarski".

Theresa V. Czarski
Assistant People's Counsel

TVC:sd

No. of Copies rec'd
List A B C D E

044

JUL - 2 1993

Before The
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections of
 the Cable Television Consumer
 Protection and Competition Act
 of 1992)

Rate Regulation)

MM Docket 92-266

RECEIVED

JUL 2 1993

FCC MAIL ROOM

REPLY COMMENTS OF THE MARYLAND OFFICE OF PEOPLE'S COUNSEL

I. Introduction

The Maryland Office of People's Counsel ("MPC") hereby submits these Reply Comments in the above-captioned Further Notice of Proposed Rulemaking on Cable rate regulation. The Maryland Office of People's Counsel is an agency of the State of Maryland which may appear before any federal or state agency as necessary to protect the interests of residential and noncommercial users of utility or other regulated services. MPC believes that for the Commission to ensure reasonable cable rates, it must significantly discount the rates of low penetration and municipally owned systems in setting the competitive benchmark.

II. Low Penetration And Municipally Owned Cable Systems Should Be Discounted In The Commission Benchmark Calculation

MPC files these comments in support of those filed by the Consumer Federation of America (CFA) on June 17, 1993. In response to the Commission's request for comments on whether it should exclude or give substantially less weight to systems in

low penetration areas in calculating its competitive rate differential, the CFA recommended that the Commission "recalculate the benchmarks by discounting low penetration and municipally owned systems and relying primarily on systems subject to head-to-head competition." CFA Comments, p. 7. MPC agrees with CFA that the Commission should use its discretion to recalculate the benchmark by reducing its reliance on low-penetration and municipally owned systems.

Because the Commission has indicated that rates below the competitive benchmark are considered reasonable,¹ it becomes imperative that the benchmark be constructed such that it is as near as possible to competitive rates. The most appropriate way to develop a competitive rate differential which mirrors the rates of a competitive market is to rely on empirical data developed from the rates of companies that are currently facing "real" competition. As the CFA's data analysis shows, including high-cost, low penetration systems in the benchmark calculation will result in an unreasonable rate for cable service subscribers.

As discussed in CFA's Data Analysis (Appendix A attached to the Comments of the Consumer Federation of America) low penetration cable systems are by their nature an aberration and therefore too unreliable a determinate for use in the benchmark in setting rates to be considered reasonable. These systems have higher than normal cost for providing services, and therefore high rates because of the small number of customers available upon which to apportion the cost of service. Most cable systems are radically different from this; therefore, low penetration systems should not be included

¹See Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 92-266, 58 Fed. Reg. 29736, 29742 (May 21, 1993).

by the Commission as part of the benchmark for setting rates. If low penetration systems are included in the benchmark calculation, rates for cable service will be set at higher than reasonable amounts thus frustrating the principle goal of Congress that cable rates reflect those in a competitive market.

III. Conclusion

MPC requests that the Commission adopt the Consumer Federation of America's recommendation that the Commission recalculate the benchmarks in its Report and Order by significantly reducing its reliance on data from low penetration and municipally owned cable systems.

Respectfully submitted,



John M. Glynn
People's Counsel



Theresa V. Czarski
Assistant People's Counsel

Maryland Office of People's Counsel
American Building, 9th Floor
231 E. Baltimore Street
Baltimore, Maryland 21202

(410) 333-6046